

# UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF WISCONSIN

In the Matter of the Seizure of  
(Address or brief description of property or premises to be seized)

ONE 2008 MERCEDES-BENZ S550 LIMOUSINE,  
BEARING VEHICLE IDENTIFICATION NUMBER  
(VIN) WDDNG71X38A158818, CURRENTLY  
LOCATED IN CHICAGO, ILLINOIS

Case Number:

19-MJ-1390

### APPLICATION FOR A WARRANT TO SEIZE PROPERTY SUBJECT TO FORFEITURE

I, Park J. Jones, being duly sworn depose and say:

I am a Special Agent with the Internal Revenue Service, Criminal Investigation, and have reason to believe that in the Northern District of Illinois there is now certain property, namely, one 2008 Mercedes-Benz S550 limousine, bearing vehicle identification number (VIN) WDDNG71X38A158818, currently located in Chicago, Illinois, that is civilly forfeitable under 18 U.S.C. § 981(a)(1)(C), including cross-references to 18 U.S.C. §§ 1956(c)(7) and 1961(1), and criminally forfeitable under 18 U.S.C. § 981(a)(1)(C) in conjunction with 28 U.S.C. § 2461(c), as property that was purchased with proceeds constituting, or traceable to, proceeds of wire fraud committed in violation of 18 U.S.C. § 1343, and which property is therefore also subject to seizure for purposes of civil forfeiture under 18 U.S.C. § 981(b)(2) and for purposes of criminal forfeiture under 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(f).

The application is based on these facts:

☒ Continued on the attached sheet.

☐ Delayed notice of \_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Sworn to before me, and subscribed in my presence

12/26/19 @ 1:25 p.m.  
Date and time issued



Signature of Affiant  
Park J. Jones, IRS-CI

at Milwaukee, Wisconsin  
City and State

William E. Duffin, U.S. Magistrate Judge  
Name & Title of Judicial Officer

Signature of Judicial Officer

## **AFFIDAVIT IN SUPPORT OF APPLICATION FOR SEIZURE WARRANT**

I, Park J. Jones, having been duly sworn on oath, state as follows:

### **Affiant's Background**

1. I am employed as a Special Agent with the Internal Revenue Service, Criminal Investigation (IRS-CI) and have been so employed since September 2005. My responsibilities as a Special Agent include the investigation of potential criminal violations of the Internal Revenue Code under Title 26 of the United States Code as well as related Title 18 and Title 31 offenses.
2. Because I am submitting this affidavit for the limited purpose of establishing probable cause for the requested seizure warrant, I have not included in this affidavit every detail I know about this investigation. Rather, I have included only the information necessary to establish probable cause for the requested seizure warrant.
3. The facts set forth in this affidavit are based on my personal knowledge, documents and records I have reviewed in the course of this investigation, information I have gained through my law enforcement training and experience, and information I have obtained from others, all of whom I believe to be truthful and reliable.

### **Property Sought to be Seized**

4. I submit this affidavit in support of an application for a warrant to seize a 2008 Mercedes-Benz S550 limousine, bearing vehicle identification number WDDNG71X38A158818, which is titled in the name of World Burns, Inc. (hereinafter referred to as the "Limo").
5. Based on the facts and circumstances set forth below, I submit that there exists probable cause to believe that Francis Burns purchased the Limo with proceeds constituting, or traceable to, proceeds of a wire fraud scheme that Burns committed in violation of 18 U.S.C. § 1343. I further submit that the Limo is therefore subject to civil forfeiture under 18 U.S.C. § 981(a)(1)(C), including cross-references to 18 U.S.C. §§ 1956(c)(7) and 1961(1), and subject to criminal forfeiture under 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

### **Owner of the Limo**

6. According to the State of Illinois Department of Motor Vehicles, the Limo is titled in the name of World Burns, Inc., a corporation created under the laws of the State of Wisconsin.
7. According to Articles of Incorporation filed with the State of Wisconsin Department of Financial Institutions, Francis Burns is the director for World Burns, Inc.

## **Background – IRS Regulations**

8. An estate is the sum of an individual's assets, rights, entitlements, and interests to property of any kind. When an individual dies, their assets become property of their estate. The United States levies federal taxes on estates. There are potentially two kinds of taxes owed by an estate: one on the transfer of assets from the decedent to their beneficiaries and heirs (the estate tax), and another on income generated by assets of the decedent's estate (the income tax).

9. An income tax is levied when a decedent's estate income (examples include: interest earned on bank accounts, CDs, stocks, bonds, mutual funds and rental property) generates more than \$600 in annual gross income. The income and tax is reported on an IRS Form 1041, U.S. Income Tax Return for Estates and Trusts. The executor or personal representative of the estate must file the Form 1041. The Form 1041 can be filed electronically or by paper with the IRS.

10. The decedent and their estate are separate taxable entities. Therefore, the estate needs to obtain a tax identification number before filing a Form 1041.

11. A decedent's estate computes its gross income in the same manner as an individual. Most deductions and credits allowed to individuals are also allowed to estates and trusts.

12. Typically, the filing requirement for Form 1041 starts on the day of the estate owner's death and ends on December 31 of the same year. The executor, however, can file an election to choose a fiscal year, which means the tax year ends on the last day of the month before the one year anniversary of death. The executor then has up to 12 months to file the income tax return.

13. Federal taxes are paid as the income is received rather than paying all the tax at the end of the year. This is referred to as the pay-as-you-go tax. The IRS has two methods for paying-as-you-go:

- Withholding – the tax is withheld from the income earned by an entity. This method is typically used by an employer to withhold income tax from an employee's pay. In addition, tax may be withheld from certain other income, such as pensions, bonuses, commissions, and gambling winnings. The amount of tax withheld is remitted to the IRS in the entity's name and taxpayer identification number.
- Estimated tax – this is a method used to pay tax on income that is not subject to federal withholding tax. This is used on income such as dividends, interest, capital gains, rents, and royalties.

12. The IRS has an electronic system ("e-file") for taxpayers to submit tax returns and other supporting documents to the IRS through an internet or direct connection. This is known as online filing. The preparation of an online return can be initiated from any personal computer with an internet connection. A taxpayer filing online must submit their return to the IRS via an authorized IRS e-file provider such as Intuit, Tax Act, or H&R Block Online. The provider will

act as a transmitter and send the formatted electronic tax return information directly to the IRS. The provider captures the Internet Protocol (IP) information such as the address, date, time, and time zone of the origination of a tax return filed online by a taxpayer. This information is transmitted with the taxpayer's electronic return to the IRS.

### **The Scheme to Defraud**

13. A tax refund fraud scheme involves one or more individuals who prepare false income tax returns, file false income tax returns, or do both using false income, deductions, or tax withholding amounts to generate a fraudulent claim for refund. A Form 1041 may be used to execute a tax refund scheme—just as a Form 1040 is often used to execute such a scheme. Using either type of return, a fraudster can manipulate the numbers on the form using false income, false tax withholding figures, or both to generate a fraudulent refund.

### **False 2015 Form 1041 that Francis Burns filed with the IRS for the Estate of Francis Burns**

14. On or about September 29, 2016, the IRS electronically received a 2015 Form 1041 for the estate name of Francis Burns. The address on the return was 3421 West Vliet Street Ste [Suite] 80734, Milwaukee, Wisconsin 53208. According to United States Postal Service online records, the address of 3421 West Vliet Street, Milwaukee, Wisconsin, is a retail location of a United States Post Office. I obtained the Post Office Box application for PO Box 80734 in Milwaukee, Wisconsin. The owner of PO Box 80734 listed on the application is World Burns Inc. c/o Francis Burns. Burns used his Wisconsin driver's license as an identification document to open the mailbox.

15. The Form 1041 has several sections at the beginning of the return that indicate what type of return is being filed – for example, a trust or estate tax return. In section A of the above-mentioned 2015 Form 1041 filed on September 29, 2016, the "Decedent's Estate" box was checked, which indicates that the tax return was being filed for an estate. In addition, in sections D & F, respectively, the "date entity created" question listed a date of "October 19, 1985" and the "initial return" box was checked. These entries on the tax return indicate that an estate was created on October 19, 1985, and that the initial estate tax return was being filed for 2015.

16. The 2015 Form 1041 in the estate name of Francis Burns reported no income or deductions.

17. In the tax and payments section, the return reported, on line 24e – "federal income tax withheld" – the sum of \$132,814. On the same line, there is a question asking, "[i]f any is from Form 1099, check [a box]." That box was checked, which indicates that all or a portion of the federal tax withheld would be substantiated by a corresponding Form 1099 filed by the withholder.

18. On November 8, 2016, based on the large amount of federal tax withholdings claimed to have been paid on the 2015 Form 1041 in the estate name of Francis Burns, the IRS



issued a refund payment in the amount of \$132,814.00 via a check issued by the United States Treasury to the Francis Burns Estate.

19. However, that claim was false because the IRS has no record of payment of any tax withholdings for the Francis Burns estate.

20. On November 17, 2016, the tax refund check was deposited through an automated teller machine into a Wells Fargo Bank account, having the last four digits 1880. That account was titled "Burns Francis TTE Under DEC of TR 04/24/2016 TR." The signor on the account was Francis Burns.

**False 2016 Form 1041 that Francis Burns filed with the IRS for the Estate of Francis Burns**

21. On February 3, 2017, the IRS electronically received a 2016 Form 1041 in the estate name of Francis Burns. The address on the return was 3421 West Vliet Street Ste [Suite] 80734, Milwaukee, Wisconsin 53208. The return was filed electronically online through TaxAct, Inc. TaxAct is an electronic transmitter based out of Cedar Rapids, Iowa. According to records obtained from TaxAct, Inc., the contact information on that 2016 Form 1041 was Francis Burns using a residential address of 3421 West Vliet Street, Milwaukee, Wisconsin, and an email address of FRANCESXXXXXXXXX@GMAIL.COM. I obtained the subscriber records from Google for the email address FRANCESXXXXXXXXX@GMAIL.COM. The subscriber name is Francesco Burns with a phone number of 414-XXX-5336. This is the same telephone number that Francis Burns has used to contact me during the investigation.

22. The 2016 Form 1041 tax return filed online on February 3, 2017, originated from IP address ending in x.238. An online geolocation search for IP address x.238 revealed the IP address originated in Pistoia, Italy.

23. Per travel records I obtained from United Airlines regarding Francis Burns, on December 28 and 29, 2016, Burns traveled from Chicago O'Hare International Airport to Frankfurt, Germany. Burns then took a connecting flight from Frankfurt, Germany, to Venice, Italy. Burns then returned from Venice, Italy, to Chicago, Illinois, on February 27, 2017. Therefore, Burns was in Italy on February 3, 2017, the date the 2016 Form 1041 was filed.

24. The 2016 Form 1041 in the estate name of Francis Burns reported total income of \$1,135,356. The income reported was \$961,860 of interest income and \$173,496 of other income. The income typically would be substantiated by one or more corresponding Forms 1099 filed by the payers of the supposed interest and income payments. The IRS has no record of any income reported for the Francis Burns estate. In the tax and payments section, the return had reported \$4,023,936 on line 24e – Federal income tax withheld. On the same line, there is a question asking, "If any is from Form 1099, check [a box]." The box was checked, which indicates that all or a portion of the federal tax withheld would be substantiated by a corresponding Form 1099 filed by the withholder.

25. On March 7, 2017, based on the large amount of federal tax withholdings claimed to have been paid on the 2016 Form 1041 in the estate name of Francis Burns, the IRS issued a

refund payment in the amount of \$3,539,726.00 via a check issued by the United States Treasury to the Francis Burns Estate.

26. However, that claim was false because the IRS has no record of payment of any tax withholdings for the Francis Burns estate.

27. On or about March 22, 2017, a bank account ending in 5849 was opened at Associated Bank ("Associated Bank 5849"). The signors on the account were listed as Burns Francis as Trustee and Francis Burns. It is unknown why Burns is listed a signor under the name "Burns Francis," rather than Francis Burns. On the signature card, Burns listed his employer as World Burns, Inc.

28. On or about March 22, 2017, Burns deposited the 2016 tax refund check in the amount of \$3,539,726 into Associated Bank 5849 titled "Francis Burns As Trustee – Francis Burns Trust UTA 4/24/16."

29. On or about April 19, 2017, a bank account ending in 4632 was opened at Associated Bank ("Associated Bank 4632"). The account was titled World Burns Inc. The signor on the account was Francis T. Burns with the title of "owner."

#### **Purchase of the Limo**

30. A Bill of Sale shows that the Limo was purchased on or about June 12, 2017, from V.A.G. in Las Vegas, Nevada, for the final purchase price of \$69,675.

31. On or about June 12, 2017, \$69,675 was wire transferred from Associated Bank 4632 to V.A.G. to complete the purchase of the Limo.

32. The wire transfer from Associated Bank 4632 was funded with a \$1,000,000 transfer that occurred on May 22, 2017, from Associated Bank 5849 and other miscellaneous deposits totaling \$9,114 occurring prior to May 31, 2017. Therefore, 99.1% of the funds in Associated Bank 4632 were derived from Associated Bank 5849.

33. Records show, in turn, that 99.6% of the funds in Associated Bank 5849 were derived from known proceeds from Francis Burns' fraudulent filing, using interstate wirings, of the false 2016 Form 1041 tax return on behalf of the Francis Burns Estate.

34. Thus, the \$69,675 in funds used to purchase the Limo are traceable, almost entirely, to proceeds of Burns' wire fraud scheme, and particularly to Francis Burns' fraudulent electronic filing of the false 2016 Form 1041 on behalf of the Francis Burns Estate.

35. On or about June 27, 2017, a transportation company delivered the Limo to Francis Burns at his residence in Chicago, Illinois, where it is currently located.

### Conclusion

36. Based on the above facts, I submit that there exists probable cause to believe that the 2008 Mercedes-Benz S550, bearing vehicle identification number WDDNG71X38A158818:

- A. Was purchased with proceeds constituting, or traceable to, proceeds of a wire fraud scheme committed in violation of 18 U.S.C. § 1343;
- B. Is subject to civil forfeiture under 18 U.S.C. § 981(a)(1)(C), including cross-references to 18 U.S.C. §§ 1956(c)(7) and 1961(1), and is subject to criminal forfeiture under 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c); and
- C. Is subject to seizure under both the civil seizure statute, 18 U.S.C. § 981(b), as well as the criminal seizure statutes, 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(f).

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